

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

STEPHEN LOCURTO, :

Plaintiff, :

- against - :

ANDREA M. LOCURTO, CLIFFORD V. :

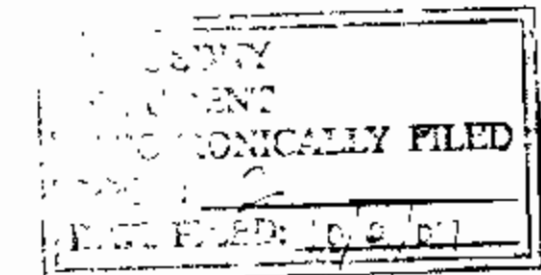
LOCURTO, AND CHARLES F. :

LOCURTO, JR., :

Defendants. :

-----X

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE



WHEREAS plaintiff commenced a lawsuit in this Court on September 21, 2007, alleging, inter alia, fraud, conversion, and unjust enrichment with respect to the purchase and potential sale of a residence located at 3099 Route 17-B, Cohecton, New York ("Sullivan County Residence"); and

WHEREAS the Sullivan County Residence is the subject of a pending probate proceeding, relating to the estate of the plaintiff's father, before the Surrogate's Court for Sullivan County, State of New York; and

WHEREAS plaintiff seeks a "Declaratory Judgment holding that plaintiff has a lawful interest in the property," and "a Preliminary Order prohibiting defendants from selling, trading, or otherwise disposing of the" Sullivan County Residence, it is hereby

ORDERED that plaintiff show cause why this action, in whole or

in part, should not be dismissed for lack of subject matter jurisdiction because plaintiff seeks to reach a res in the custody of a state court, triggering the probate exception to federal subject matter jurisdiction, Marshall v. Marshall, 547 U.S. 293, 312 (2006), and it is further

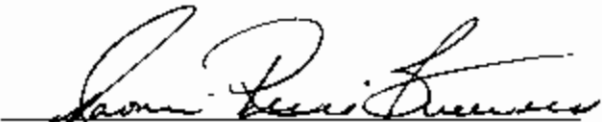
ORDERED that plaintiff show cause why this action, in whole or in part, should not be dismissed or stayed because plaintiff seeks to interfere with pending parallel state litigation concerning a res over which the state court has assumed jurisdiction, Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 813-17 (1976), and it is further

ORDERED that plaintiff's opening brief on these issues is due no later than October 25, 2007, defendants' opposition briefs are due no later than November 15, 2007, and plaintiff's reply brief is due no later than November 29, 2007, and it is further

ORDERED that plaintiff provide the defendants with copies of the complaint in this action and this Order.

SO ORDERED.

DATED: October 2, 2007


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

Stephen Locurto
58095-053 USP Big Sandy
PO Box 2068
Inez, KY 41224

-and-

Clifford V. Locurto
C. Vincent Locurto, P.A.
2721 SE 15th St.
Pompano Beach, FL 33062-7506

-and-

Charles F. Locurto, Jr.
40 Westminster St.
Providence, RI 02903-2525

-and-

Charles F. Locurto, Jr.
36 Holiday Drive
Lincoln, RI 02865-2222